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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,235	10/11/2000	Frederic L. Way II	TS097-cipSLED	6103

7590

01/23/2002

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EXAMINER

KLEBE, GERALD B

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 01/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/686,235

Applicant(s)  
Way II, et al.

Examiner  
Gerald Klebe

Art Unit  
3618



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on Feb 7, 2001.

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-28 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☒ Claims 1-28 are subject to restriction and/or election requirement.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

*G. Klebe 17 JAN 2002*

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

20) ☐ Other:

Art Unit: 3618

## **DETAILED ACTION**

### ***Restriction/Election***

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

- I. Figs 1, 2, 4-10, 14, and 15, drawn to a four-wheeled embodiment, in class 280, subclass 8;
- II. Fig 3, drawn to a three-wheeled embodiment;
- III. Fig 11, drawn to an embodiment having skis at the front, wheels rear;
- IV. Fig. 12, drawn to an embodiment with skis both front and rear;
- V. Fig. 13, drawn to an embodiment with skis at the front and a slide pan at the rear.

2. A telephone call was placed to the attorney of record in the case, Mr. George W. Dishong, Reg. No. 31,348, at 2:45 PM EST on 1/17/2002, to request an oral election to the above restriction requirement; but Mr. Dishong was not able to make an election at that time and so, requested that a written restriction requirement be provided. Applicant is advised that the reply to this requirement, to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

3. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there appears to be no allowable generic claim.

Art Unit: 3618


4. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.


5. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

6. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

***Conclusion***

7. Any inquiry concerning this communication from the examiner should be directed to Gerald B. Klebe, telephone 703-305-0578, facsimile 703-308-2571, between 8:00 AM and 4:30 PM ET, Mon-Fri., or to Supervisory Patent Examiner Brian L. Johnson, Art Unit 3618, telephone 703-308-0885.

  
gbklebe / Art Unit 3618 / 17 January 2002

  
Brian L. Johnson  
1/17/02